

**Before the
Federal Communications Commission
Washington, D.C. 20554**

In the Matter of)	
)	
Urbanmedia One)	
)	
Application for a Construction Permit for a New)	File No. BNPL-20131114ADR
Low Power FM Station (WJPC-LP) at Chicago,)	Facility ID No. 193259
Illinois)	

MEMORANDUM OPINION AND ORDER

Adopted: December 15, 2016

Released: December 15, 2016

By the Commission:

1. We have before us an Application for Review (AFR) filed by Sound of Hope Radio NFP (SOH), the permittee of new low power FM (LPFM) station WQEG-LP, Chicago, Illinois.¹ SOH seeks review of the dismissal by the Media Bureau (Bureau), as repetitious, of SOH's April 2, 2016, Petition for Reconsideration of the Bureau's dismissal of SOH's earlier January 7, 2015 Petition for Reconsideration and Rescission.² The Bureau had dismissed the earlier petition, concluding that SOH had failed to demonstrate good cause for its failure to have participated earlier in the subject proceeding.³

2. By way of background, on November 14, 2013, SOH, Urbanmedia One (UM) and Morton College (Morton) each filed a mutually exclusive application for a new LPFM construction permit.⁴ On September 5, 2014, the Commission issued a Public Notice announcing that the three applicants were equally qualified, tied with the same number of comparative points awarded, and therefore joint tentative selectees in Group 152. The three applicants were provided 90 days within which to negotiate and submit a time-share agreement and/or to eliminate their mutual exclusivity by major amendments to their technical proposals.⁵ On December 2, 2014, UM and Morton filed a time-share agreement that allowed them to aggregate their comparative points to make their combined proposals comparatively superior to that of SOH alone.⁶ Accordingly, on December 4, 2014, the Bureau granted construction permits to UM (for WJPC-LP, Chicago, IL) and to Morton (for WZQC-LP, Cicero, IL) and dismissed the SOH application.⁷ After SOH filed a major site change amendment to its application on

¹ SOH Application for Review (filed Aug. 19, 2016).

² See *James L. Winston, Esq.*, Letter Order (MB Jul. 20, 2016) (*Second Staff Decision*), dismissing SOH's April 2, 2015 Petition for Reconsideration (*Second Petition*).

³ See *James L. Winston, Esq.*, Letter Order (MB Mar. 4, 2015) (*Staff Decision*), dismissing SOH's January 7, 2015 Petition for Reconsideration and Rescission (*First Petition*).

⁴ File Nos. BNPL-20131114BNK, BNPL-20131114ADR and BNPL-20131114ABC, respectively.

⁵ See *Commission Identifies Tentative Selectees in 111 Groups of Mutually Exclusive Applications Filed in the LPFM Window; Announces 30-Day Petition to Deny Period and 90-Day Period to File Voluntary Time-Share Proposals and Major Change Amendments*, Public Notice, 29 FCC Rcd 10847, 10851-52, 18057, Att. A (2014) (90-Day Public Notice) (establishing a 90-day window, ending on December 8, 2014, for mutually-exclusive applicants in certain LPFM groups, including Group 152, to submit time-share agreements and major change amendments to resolve mutual exclusivities).

⁶ See 47 CFR § 73.872(c).

⁷ See Broadcast Actions, Public Notice, Report No. 48382 (MB Dec. 9, 2014).

December 8, 2014, to eliminate its conflict with UM's WJPC-LP and become a "singleton," the Bureau reinstated and granted the SOH application on January 14, 2015, assigning it the call sign WQEG-LP.⁸

3. In its AFR, SOH maintains that the grant of the UM application should be rescinded, the time-share hours granted to UM should be reverted to pre-grant status, and the Commission should provide an opportunity for SOH and Morton to negotiate and file a new time-share agreement.⁹ For the following reasons, we dismiss the AFR because SOH lacks the requisite standing to seek review of the Bureau's actions.

4. Under Section 5(c)(4) of the Communications Act of 1934, as amended, and Section 1.115(a) of the Commission's Rules (Rules), a filer has standing to submit an application for review of a decision by which it is "aggrieved."¹⁰ The Commission accords party-in-interest status to a filer that demonstrates: (1) harm of a direct, tangible, or substantial nature; (2) residence in the service area of the subject station; or (3) regular listenership to the station which is not the result of transient contacts.¹¹ To show that it has suffered harm from the Bureau's action and is accordingly "aggrieved," a filer seeking review must also demonstrate that its claimed injury would be prevented or redressed by the relief requested.¹² SOH does not allege listener/residence status in the area covered by UM's station.¹³ It also fails to demonstrate that the harm that it purportedly suffered by the Bureau's grant of the UM application would be redressed by the relief that it requests: the rescission of the grant to UM of the WHPC-LP permit.¹⁴ If we were to rescind the grant to UM, Morton would retain its WZQC-LP permit, would no longer be required to share time with UM, and could request a modification of its authorization for that station to operate on a full-time basis.¹⁵ Thus, it would have no reason to negotiate a time-sharing agreement with SOH and SOH submits no evidence suggesting that it would do so. Moreover, by amending to another site, SOH eliminated the mutual exclusivity between its application and that of

⁸ See Broadcast Actions, Public Notice, Report No. 48408 (MB Jan. 20, 2015).

⁹ See AFR at 5, n.5; *First Petition at 15*; Second Petition at 18-19. SOH did not challenge the Morton grant.

¹⁰ 47 U.S.C. § 155(c)(4); 47 CFR § 1.115(a).

¹¹ See *Tabback Broad. Co.*, Memorandum Opinion and Order, 15 FCC Rcd 11899, 11900 n.3 (2000); *CHET-5 Broadcasting, L.P.*, Memorandum Opinion and Order, 14 FCC Rcd 13041, 13042, para. 3 (1999); *Telesis Corp.*, Memorandum Opinion and Order, 68 FCC 2d 696, 698-99, para. 8 (1978).

¹² See, e.g., *AT&T Inc. and Deutsche Telecom*, Memorandum Opinion and Order, 27 FCC Rcd 4423, 4425, para. 8 (2012); *WINV, Inc.*, Memorandum Opinion and Order, 14 FCC Rcd 2032, 2033-34, para. 3 (1998).

¹³ Declarations included in SOH's First and Second Petitions show, at most, transient listenership. See *Second Petition*, Exhs. 6 and 7 (Jesse Lin and Sophie Wang, residents of Lisle, Illinois, each declare that he or she was in Chicago on December 30, 2014 and heard music at 99.1 MHz believed to originate with UM). Lisle is approximately 23 miles from the site approved in the UM application, and well outside of UM's station WJPC-LP LPFM service area.

¹⁴ The predicted service contours of WJPC-LP and WQEG-LP do not overlap. See *Bloomfield Hills School Dist.*, Memorandum Opinion and Order and Notice of Apparent Liability, 22 FCC Rcd 14055, 14058, para. 8 (MB 2007) (alleged close proximity and petitioner's inability to upgrade FM station without protecting other station insufficient to establish standing based on adverse effect, where there was no contour overlap between the existing signals); *Denny Hazen*, Letter, 23 FCC Rcd 11579, 11581 n.15 (MB 2008) (no standing as a competitor absent contour overlap and similar format of noncommercial FM stations).

¹⁵ See *Susquehanna Radio Corp.*, 29 FCC Rcd 13276, 13277, para. 3 (2014); compare *SF Indiefest*, Memorandum Opinion and Order, 31 FCC Rcd 7512 (2016) (mutually exclusive LPFM applicants filed petitions to deny but not amendments to become singletons, and partial grants of petitions to deny resulted in disqualification of one party to a pending time-share agreement and rescission of another party's tentative selectee status; Commission gave the two remaining mutually-exclusive tentative selectees a new opportunity to submit an acceptable time-share agreement).

Morton, and the Bureau's grants of those applications have long since become final.¹⁶ Thus, SOH and Morton have no pending and mutually exclusive applications that would allow them to reach a time-share agreement under the Rules.¹⁷ For these reasons, we find that SOH is not aggrieved by the Bureau action and we therefore dismiss the AFR for lack of standing.¹⁸

5. ACCORDINGLY, IT IS ORDERED that the Application for Review filed by Sound of Hope Radio NFP on August 19, 2016, IS DISMISSED, pursuant to Section 5(c)(4) of the Communications Act of 1934, as amended, and Section 1.115(a) of the Commission's Rules.¹⁹

FEDERAL COMMUNICATIONS COMMISSION

Marlene H. Dortch
Secretary

¹⁶ See *First Decision*, fn. 11. SOH cannot return to its original site because only minor change applications to authorized LPFM stations are permitted outside of a filing window and a site relocation greater than 5.6 kilometers is considered a major change. See 47 CFR § 73.870(a).

¹⁷ See 47 CFR §§ 73.871(a)(4), 73.872(c).

¹⁸ See, e.g., *Chapin Enter., LLC*, Memorandum Opinion and Order, 29 FCC Rcd 4250, 4252-53, para. 7 (2014) (dismissing application for review filed by informal objector that did not demonstrate he was aggrieved by Bureau action); *Urban Radio I, L.L.C., Debtor-in-Possession, and YMF Media, New York Licensee LLC*, Memorandum Opinion and Order, 29 FCC Rcd 6389, 6389-90, para. 2 (2014) (dismissing application for review where applicants did not demonstrate competitive harm or signal interference, claim to be listeners of the stations, or show any causal link between any claimed injury and grants at issue).

¹⁹ 47 U.S.C. § 155(c)(5); 47 CFR § 1.115(g).